

REMARKS

Claims 59, 63-69, 71-72, and 75-78 were pending in the application. Claims 59, 63, 65, 72 have been withdrawn from consideration without prejudice. By this paper, withdrawn claim 59 and claims 64, 67, and 75 have been amended. New claims 79-86 have been added. Claims 64, 66-69, 71, and 75-86 are now pending in the application. Reinstatement of claims 59, 63, 65, and 72 is requested herein. Reconsideration of the pending application is hereby respectfully solicited in view of the foregoing amendments and the following remarks.

Telephone Interview with the Examiner

Applicant wishes to thank Examiner Garrett for her time and courtesy extended during a telephone conference with Applicant on November 20, 2006. Applicant and the Examiner discussed the claim amendments and, in particular, the statement in the November 11, 2006 Advisory Action that the claim amendments raised new matter issues. Applicant and the Examiner agreed that the claim amendments are properly supported by the pending application, and that no new matter issues are raised as a result.

Claim Rejections - 35 U.S.C. §102(e)

In the Final Office Action dated July 21, 2006, claims 64, 66, 67, 70, and 71 were rejected as anticipated by Kain, U.S. Patent No. 6,550,862 (Kain). Though not argued herein, Applicants reserve the right to swear behind any properly cited §102(e) reference.

The Office Action alleges that that Kain teaches a base 16 having an object holder 18 including a cavity. The Office Action further states that when the object holder is in the fully retracted storage position, the object holder can be retracted no further into the base, and only a portion of the object holder is within the base such that a first portion of the cavity remains extended from the base and second portion of the cavity is retracted within the base.

Independent claim 64 has been amended to recite that the base is laterally extending and has an outer lateral boundary. The object holder has an end portion having a perimeter that defines at least a portion of a vertically elongated cavity for receiving and holding an object. Notably, claim 64 recites that when the object holder is in the fully retracted storage position, a first part of the perimeter is inaccessible as a gripping surface and a second part of the perimeter

extends laterally beyond the outer lateral boundary of the base so as to be accessible as a gripping surface.

Kain fails to teach or suggest these claim limitations. The Office Action asserts that Kain “clearly shows” a first part of the end portion is received within the base. In fact, Kain teaches a cup holder 18 that is mounted for movement relative to a base 16 (see Col. 2, lines 36-37). The end portion of the cup holder is a cup receiver 20 having a perimeter that defines a cavity to hold an object. Notably, Kain teaches that the base 16 includes a platform 90 (see Col. 4, line 10; see also Fig. 5. Platform 90 therefore defines the outer lateral boundary of the base 16. However, as clearly illustrated in Fig. 5, when in the retracted position, the cup receiver 20 sits on top of the platform 90 and *no part of the perimeter of the cup receiver 20 extends laterally beyond the platform 90*. Accordingly, Kain fails to teach or suggest the claim 64 limitation of “second part of the perimeter extends laterally beyond the outer lateral boundary of the base.” Kain therefore clearly fails to anticipate claim 64.

Furthermore, Kain provides no teaching, suggestion, or motivation to one skilled in the art to modify the disclosed seat such that the cup receiver is disposed laterally outward from the base when fully retracted. In fact, if one skilled in the art were to modify Kain’s cup receiver to extend laterally beyond the outer lateral boundary, Kain’s invention would fail to operate for its intended purpose. Specifically, platform 90 is sized and shaped to fully support the fully retracted cup receiver 20. Moreover, if one were to modify Kain to configure a fully retracted position with the cup holder 20 extending beyond the base, one skilled in the art would be concerned with the ability of a user to accidentally bump against and damage the extended cup holder 20. Kain specifically teaches that in the retracted position, the cup receiver 20 cannot accommodate cups or other articles that are accommodated in the extended position (see Col. 5, lines 3-7). Accordingly, if one skilled in the art were to attempt to modify Kain’s cup holder as recited in claim 64, the skilled artisan would be concerned with a user (e.g., a young child) being induced to attempt to place an object (e.g., a drink) in the cup holder 20 even when retracted, which is against the teachings of Kain and could result in unintentional spillage.

Any attempt to interpret Kain as rendering claim 64 obvious would be necessarily based on impermissible hindsight based on the advantages attained by the presently claimed invention. For instance, the presently claimed structure provides the advantage of a first part of the

perimeter being inaccessible as a gripping surface and the second part of the perimeter that extends beyond the outer lateral boundary of the base as being accessible as a gripping surface, thus providing an intuitive the use of the claimed object holder.

It should be briefly noted that to the Office Action might assert that the platform 90 does not form part of the base, then the Office Action likewise would be unable to accurately assert that the first part of the perimeter is received within the base in the fully retracted position, as recited in claim 64.

Because Kain fails to teach or suggest all limitations recited in independent claim 64, and because the presently claimed invention provides advantages that are not recognized or attained by Kain, Applicant asserts that claim 64 is patentable over the cited prior art. Applicant further asserts that the patentability of claim 64 provides sufficient basis for the allowance of corresponding dependent claims 66, 67, 70, and 71. Withdrawal of the rejection of claims 64, 66, 67, 70, and 71 is therefore respectfully requested.

Claim Rejections - 35 U.S.C. §103

In the Final Office Action dated July 21, 2006, claims 68, 69, and 75-78 were rejected as being obvious in view of the combination of Kain and Lancaster, U.S. Patent No. 5,876,007 (Lancaster).

With respect to claims 68 and 69, Applicant notes that these claims depend from independent claim 64 which has shown to be patentable over the prior art, thus providing sufficient basis for the allowance of corresponding dependent claims 68 and 69.

With respect to claims 75-78, Applicant notes that independent claim 75 has been amended in a manner similar to claim 64, but is further limited to including two claimed object holders, each object holder having structural features recited with respect to the object holder of claim 64. For instance, claim 75 recites a laterally extending base having an outer lateral boundary. First and second object holders are attached to the base, and each include an end portion having a perimeter that defines at least a portion of a vertically elongated cavity for receiving and holding an object. When in the fully retracted, storage position, each respective object holder can be retracted no further into the base, and a first part of the perimeter of each respective object holder is received within the base and is inaccessible as a gripping surface, and

a second part of the perimeter of each respective object holder extends laterally beyond the outer lateral boundary of the base so as to be accessible as a gripping surface (italics added for emphasis).

Lancaster is cited for disclosing a second object holder, while Kain is relied upon for the structural construction of each object holder. However, for reasons discussed above with respect to independent claim 64, Kain fails to teach or suggest each structural limitation of independent claim 75.

Applicant therefore asserts that claim 75 is patentable over the cited prior art. Applicant further cites the patentability of claim 75 as providing sufficient basis for the allowability of corresponding dependent claims 76-78. Withdrawal of the rejection of claims 75-78 is therefore respectfully requested.

New Claims

Applicant has added new claims 79-84 that depend, either directly or indirectly, from one of independent claims 64 and 75. Applicant has further added new independent claim 85 and corresponding dependent claim 86. Each new claim will now be discussed.

New claims 79 and 82 depend from claim 64 and 75, respectively, and recite that when the object holder(s) is in the fully retracted storage position, a portion of the cavity is located under the seating surface.

Kain fails to teach or suggest the limitations of claims 79 and 81. For instance, Kain teaches an object holder 18 whose end portion is a cup receiver 20 that defines a cavity to hold an object. Notably, no portion of the cavity is located under the seating surface when the object holder is in its fully retracted position. For instance, as clearly shown in Fig. 1 of Kain, the cavity is completely visible to the user when the cup receiver is fully retracted. To the extent that one might quibble as to whether or not a sliver of the perimeter that defines Kain's cavity may or may not be aligned with the armrest, it is clear that no portion of the cavity itself is located under the seating surface 12.

New claims 80 and 83 depend from claims 64 and 75, respectively, and recite that when the object holder(s) is in the fully retracted, storage position, the received part of the perimeter is surrounded. Clearly, the perimeter in Kain (which defines at least a portion of the cavity of the

cup receiver 20) is not surrounded when in the fully retracted position. Specifically, no structure exists above a substantial entirety of the perimeter that is disposed within the cup holder receptor 38 (see Figs. 1 and 3). Again, while one could quibble as to whether or not the armrest is disposed above a sliver of the periphery, a substantial entirety of the periphery is uncovered.

New claims 81 and 84 depend from claims 80 and 83, respectively, and recite that the substantial entirety of the received part of the perimeter is surrounded by the base. Clearly Kain teaches, as illustrated in Fig. 1, that to the extent any portion of the periphery of the cup receiver 20 is covered, it is covered by the seating surface 12 and not the base 16. Kain discloses that the base 16 supports the seating surface 12, but does not disclose that the base *includes* the seating surface 12 (see Col. 2, lines 25-29).

New claims 85 and 86

New independent claim 85 recites a child seat having a base, a seating surface, and an object holder. When the object holder is in the fully retracted storage position, the object holder can be retracted no further relative to the base. Notably, a portion of the cavity is located under the seating surface and a first part of the perimeter is inaccessible as a gripping surface while a second part of the perimeter is exposed with respect to the seating surface and accessible as a gripping surface.

As discussed above with respect to new dependent claims 79 and 82, Kain teaches an object holder 18 whose end portion is a cup receiver 20 that defines a cavity to hold an object. Notably, Kain teaches that no portion of the cavity is located under the seating surface when the object holder is in its fully retracted position. For instance, as clearly shown in Fig. 1 of Kain, the cavity is completely visible to the user when the cup receiver is fully retracted. To the extent that one might quibble as to whether or not a sliver of the perimeter that defines Kain's cavity may or may not be aligned with the armrest, it is clear that no portion of the cavity itself is located under the seating surface 12.

Kain therefore fails to teach the claimed advantage of providing a first part of the perimeter that is inaccessible as a gripping surface while a second part of the perimeter is exposed with respect to the seating surface and accessible as a gripping surface.

New claim 86 depends from claim 85, and recites a second object holder that also has a fully retracted storage position whereby a portion of the second cavity is located under the seating surface and a first part of the perimeter is inaccessible as a gripping surface while a

second part of the perimeter is exposed with respect to the seating surface and accessible as a gripping surface. Just as Kain fails to teach or suggest one object holder of the type recited in claim 85, Kain likewise fails to teach or suggest two such object holders as recited in claim 86.

Request for Reinstatement of Withdrawn Claims

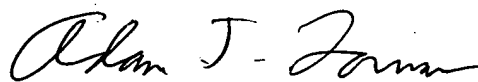
Applicant notes that withdrawn claim 65 depends from an allowable base claim and should be reinstated and allowed. Withdrawn claims 59, 63, and 72 each recite a "pivotal" object holder, but also recite similar retracted cavity limitations discussed above. These claims are allowable in view of the allowable amended claims herein, which are generic to whether the cup holder pivots or slides. Thus, Applicant respectfully asserts that claims 59, 63, 65, and 72 should all be properly reinstated in the application.

CONCLUSION

In view of the foregoing remarks, the applicants respectfully request reconsideration and withdrawal of the claim rejections and allowance of the pending claims. The examiner is invited to contact the undersigned at the telephone number listed below in order to discuss any remaining issues or matters of form that will place this case in condition for allowance.

A check payable in the amount of \$910 is enclosed for a one-month extension of time and Request for Continued Examination. While no additional fees are believed to be due for the filing of this communication, the Commissioner is hereby authorized to deduct any necessary fees due for the filing of this Response or any other communication from Deposit Account No. 50-3866.

Respectfully submitted,



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